

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1700
GENERAL

Section	
1700.11	Applicability
1700.12	Petitions to Initiate Rulemaking
1700.13	Notice of Citizen Suits
1700.14	Availability of Records
1700.15	Computation of Time
1700.16	Fees and Forfeitures
1700.17	Administration
1700.18	Advisory Council on Reclamation (Repealed)

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9347; amended at 11 Ill. Reg. 8051, effective July 1, 1987; amended at 14 Ill. Reg. 11795, effective January 1, 1991; amended at 15 Ill. Reg. 17136, effective January 1, 1992; amended at 20 Ill. Reg. 1956, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 26 Ill. Reg. 4209, effective March 6, 2002; amended at 29 Ill. Reg. 8324, effective May 27, 2005.

Section 1700.11 Applicability

- a) The requirements of 62 Ill. Adm. Code 1700 through 1850 apply to all coal exploration and surface coal mining and reclamation operations, except:
 - 1) The extraction of coal by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by him or her where 250 tons or less of coal are removed in any 12 consecutive months. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;
 - 2) *The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16²/₃% of the total mineral tonnage mined for purposes of commercial use or sale in accordance with 62 Ill. Adm. Code 1702;*
 - 3) Coal exploration on lands subject to the requirements of 43 CFR 3480-3487 (1994); and
 - 4) *The extraction of coal on Federal lands except to the extent provided under a cooperative agreement with the United States. (Section 1.06 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.06(d)])*
- b) The Illinois Department of Natural Resources, Office of Mines and Minerals (Department) shall, within 60 days after a request from any person who intends to conduct surface coal mining operations, make a written determination whether the

operation is exempt under subsection (a). The Department shall, within 30 days after receipt of a request for exemption under subsection (a), publish notice of the request in a newspaper of general circulation in the area of the proposed exempted operation. Prior to the time a determination is made, any person may submit, and the Department shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who has made a complete and accurate request for an exemption and relied upon the determination shall not be cited for violations which occurred prior to the date of the reversal.

- c) The requirements of 62 Ill. Adm. Code 1800 through 1850 (the permanent program regulations) apply to all surface coal mining and reclamation operations for which the surface coal mining operation is required to obtain a permit under the Surface Coal Mining Land Conservation and Reclamation Act (the State Act) [225 ILCS 720] on and after February 1, 1983. 62 Ill. Adm. Code 1815 and 1840 through 1846 apply to both coal exploration operations and surface coal mining and reclamation operations regardless of whether a permit is required, except as otherwise specified in those rules.
- d) Existing structures
 - 1) Each structure used in connection with a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of the permanent program regulations except that:
 - A) The Department shall exempt an existing structure which meets the performance standards of the permanent program regulations but does not meet the design requirements of the permanent program regulations from meeting those design requirements. The Department shall grant this exemption as part of the permit application process after both obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6); and
 - B) If a performance standard in 62 Ill. Adm. Code 280 (interim program regulations) is at least as stringent as the comparable performance standard of the permanent program regulations, an existing structure which meets the performance standards of the interim program regulations shall be exempted by the Department from meeting the design requirements of the permanent program regulations. The Department will grant this exemption as part of the permit application process after obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6).
 - 2) The exemptions provided in subsections (d)(1)(A) and (d)(1)(B) shall not apply to:
 - A) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and
 - B) The requirements to restore the approximate original contour of the

land.

- 3) The permittee shall modify or reconstruct an existing structure which meets a performance standard of the interim program regulations which is incompatible with the permanent program regulations to meet the design standard of the permanent program regulations, pursuant to 62 Ill. Adm. Code 1773.15(c)(6), 1780.12 and 1784.12.
 - 4) The permittee shall modify or reconstruct an existing structure which does not meet the performance standards of the interim program regulations and which the applicant proposes to use in connection with a coal exploration or surface coal mining and reclamation operation to meet the design standards of the permanent program regulations prior to issuance of the permit.
- e) Effective dates
- 1) Any person conducting coal exploration on or after February 1, 1983, shall either file a notice of intention to explore or obtain approval of the Department, as required by 62 Ill. Adm. Code 1772.
 - 2) Coal exploration performance standards in 62 Ill. Adm. Code 1815 apply after August 3, 1982.
- f) Termination of jurisdiction
- 1) The Department may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, when:
 - A) The Department determines in writing that under the initial program, all requirements imposed under 62 Ill. Adm. Code 280 have been successfully completed; or
 - B) The Department determines in writing that under the permanent program, all requirements imposed under the regulatory program have been successfully completed or, where a performance bond was required, the Department has made a final decision in accordance with 62 Ill. Adm. Code 1800.40 to release the performance bond fully.
 - 2) Following a termination under subsection (f)(1) above, the Department shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (f)(1) above was based upon fraud, collusion or misrepresentation of a material fact.

(Source: Amended at 26 Ill. Reg. 4209, effective March 6, 2002)

Section 1700.12 Petitions to Initiate Rulemakings

- a) Any person may petition the Department to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] (the State Act). The petition shall be submitted to the Department's Springfield office.

- b) The petition shall be a concise statement of the facts, technical justification, and law which require issuance, amendment, or repeal of a regulation under the State Act and whether the petitioner wants a public hearing.
- c) Upon receiving the petition, the Director shall determine if the petition sets forth facts, technical justification, and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. A reasonable basis is not facts, technical justification, or law previously considered in a petition for rulemaking. The Director shall hold a public hearing, if requested, to determine whether the petition shall be granted.
- d) Within 90 days after receiving the petition, the Director shall issue a final written decision either granting or denying the petition. The Director's decision shall constitute the final decision for the Department.
 - 1) If the Director grants the petition, the Director shall, at the time he issues the decision, submit the proposed rule to the Administrative Code Division of the Secretary of State with a notice and text of the proposed rulemaking; or
 - 2) If the Director denies the petition, the Director shall notify the petitioner in writing, stating the reasons for denial.

(Source: Amended at 26 Ill. Reg. 4209, effective March 6, 2002)

Section 1700.13 Notice of Citizen Suits

- a) A person who intends to initiate a civil action under Section 8.05 of the State Act shall give notice of intent to do so, according to this Section.
- b) Notice shall be given by certified mail to the Director, the alleged violator and when federal lands or actions of the Office of Surface Mining Reclamation and Enforcement are involved, to the Secretary of the U.S. Department of the Interior and the Director or Acting Director of the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior. The notice shall be sent by first class mail to the Field Office Director of the Office of Surface Mining Reclamation and Enforcement in Springfield.
- c) Service of notice under this Section is complete upon mailing to the last known address of each person being notified.
- d) A person giving notice regarding an alleged violation shall state, to the extent known:
 - 1) Sufficient information to identify the provision of the State Act, regulation, order, or permit allegedly violated;
 - 2) The act or omission alleged to constitute a violation;
 - 3) The name, address, and telephone numbers of the person or persons responsible for the alleged violation;
 - 4) The date, time, and location of the alleged violation;
 - 5) The name, address, and telephone number of the person giving notice; and

- 6) The name, address, and telephone number of legal counsel, if any, of the person giving notice.
- e) A person giving notice of an alleged failure of the Department to perform a mandatory act or duty under the State Act shall state, to the extent known:
 - 1) The provision of the State Act containing the mandatory act allegedly omitted;
 - 2) Sufficient information to identify the omission alleged to constitute the failure to perform a mandatory act under the State Act;
 - 3) The name, address, and telephone number of the person giving notice; and
 - 4) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

(Source: Amended at 11 Ill. Reg. 8051, effective July 1, 1987)

Section 1700.14 Availability of Records

- a) Records required by the State Act to be made available locally to the public shall be retained at the geographically closest office of the Department.
- b) Other records or documents in the possession of the Department may be requested. Persons requesting copies shall pay charges to defray the cost of copying.

(Source: Amended at 11 Ill. Reg. 8051, effective July 1, 1987)

Section 1700.15 Computation of Time

- a) Except as otherwise provided, computation of time under these regulations is based on calendar days.
- b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the Department is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- c) Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less.

Section 1700.16 Fees and Forfeitures

- a) All fees collected under the provision of the State Act shall be deposited in the Coal Mining Regulatory Fund in the State Treasury.
- b) All forfeitures collected under the provision of the State Act shall be deposited in the reclamation fund to be used for the purposes for which the bond was issued. Any forfeited funds remaining after the completion of reclamation as required by the permit and the State Act and regulations shall be returned to the party from whom the funds were collected.

(Source: Amended at 20 Ill. Reg. 1956, effective January 19, 1996)

Section 1700.17 Administration

- a) *General Duties and Powers.* In addition to the duties and powers of the Department prescribed by the Civil Administrative Code of Illinois [20 ILCS 801], the Department shall have full powers and authority to carry out and administer the provisions of the State Act. The Department has the power and the duty to act as the regulatory authority for the State of Illinois under the Federal Act (30 USCA 1201 et seq.), to submit and implement a State program under the Federal Act, and to apply for, receive, receipt for and use for and in behalf of the State such moneys and property as are given or granted under the Federal Act or any other federal law, or from any other lawful public and private source, for the purposes of the State Act. [225 ILCS 720/9.02]
- b) *Cooperative Agreements.* The Department may enter into cooperative agreements with the United States Secretary of the Interior under which the State will regulate mining on Federal lands. [225 ILCS 720/9.03]
- c) *Delegation to Other Agencies.* The Department may delegate responsibilities, other than final action on permits, to other State agencies with the authority and technical expertise to carry out such responsibilities, with the consent of such agencies. The Department may contract with any State officer or agency to administer responsibilities under this Act as may be deemed necessary and appropriate to provide for effective administration hereof, without unreasonable or unnecessary cost or duplication of effort, and taking into account the need to deliver fair and effective governmental service to the interested public. [225 ILCS 720/9.04]
- d) *Coordination with Other Agencies.* The Department shall work with other agencies to coordinate, simplify, and expedite the procedures required to obtain permits and approvals from the State for mining operations. [225 ILCS 720/9.05]

(Source: Amended at 29 Ill. Reg. 8324, effective May 27, 2005)